IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 1399/2005
(Suresh Bhati Vs. State of Rajasthan & Anr.)

Date of Order : 11/12/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. J.K.Chanda for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.
Mr. Rajendra Saraswat for the non-petitioner No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order taking cognizance dated 28.8.2004 passed by Additional Chief Judicial Magistrate, CBI Cases, Jodhpur for the offence under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act' hereinafter).

It is contended by learned counsel for the petitioner that the complainant non-petitioner No.2 Khushal Chand lodged a first information report being FIR No.219/02 on 4.6.2002 for the offences under Section 420 IPC and Section 138 of the Act. After investigation, police filed challan against the petitioner for the offences under Section 420 IPC and 138 of the Act. However, the Additional Chief Judicial Magistrate No.2, Jodhpur framed charge against the petitioner for the offence under Section 420

IPC in Criminal Case No. 937/03. Learned counsel for the petitioner submits that the complaint under Section 138 of the Act subsequently filed by the non-petitioner No.2 against the petitioner is not maintainable. However, during the course of arguments, learned counsel for the parties agreed that the case instituted on police report being Criminal Case No.937/03 and the case instituted on complaint filed by the non-petitioner No.2 under Section 138 of the Act being Criminal Case No. 1467/04 be tried together by the Additional Chief Judicial Magistrate No.2, Jodhpur.

Having regard to the peculiar facts and circumstances of the case and since both the cases arise between the same parties and the point involved is also identical, in my view, the criminal case No. 937/03 and the Case No. 1467/04 be tried together, and therefore, the case No.1467/04 pending in the Court of Additional Chief Judicial Magistrate, CBI Cases, Jodhpur is withdrawn from that Court and transferred to the Court of Additional Chief Judicial Magistrate No.2, Jodhpur, and Additional Chief Judicial Magistrate No.2, Jodhpur shall try both the cases together.

With these directions, the petition is disposed of. Stay petition also stands disposed of.

(H.R.PANWAR),J.

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